

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

BH MEDIA GROUP, INC. *et al.*,

Plaintiffs,

v.

Case No. 3:19-cv-692

**HAROLD W. CLARKE, in his official
Capacity as Director of the Virginia Department
of Corrections,**

Defendant.

AGREED ORDER

COME NOW the parties, by counsel, having conferred in accordance with Rule 26(f) of the Federal Rules of Civil Procedure, move for the entry of an order establishing certain deadlines. It appearing that the parties are in agreement on the deadlines set forth herein, and it further appearing just and proper to so do, it is hereby ORDERED that:

1. The parties shall exchange and agree upon initial factual stipulations, which shall be finalized and filed with the Court in accordance with the pre-trial scheduling order, ECF No. 25 & 23-01.

2. All parties will make their initial disclosures under Rule 26(a)(1) on or before close of business on May 1, 2020.

3. The following deadlines shall apply to disclosures under Rule 26(a)(2):

- a. Plaintiffs shall make their expert disclosures under Rule 26(a)(2) on May 11, 2020;

- b. Subject to Paragraph 4 below, Defendant shall make his expert disclosures under Rule 26(a)(2) on June 11, 2020; and
 - c. Subject to Paragraph 4 below, Plaintiffs shall make their rebuttal disclosures under Rule 26(a)(2) on June 25, 2020.
4. The following deadlines shall apply to a motion by Defendant to exclude any expert witness disclosed by Plaintiffs in accordance with Paragraph 3(a) above:
- a. Defendant shall file his motion to exclude and supporting memorandum on or before June 11, 2020;
 - b. Plaintiffs shall file their opposition on or before July 9, 2020;
 - c. Defendant shall file his rebuttal in support of his motion on or before July 16, 2020;
 - d. If Defendant moves to exclude any expert witness disclosed by Plaintiffs, Defendant shall make his expert disclosures under Rule 26(a)(2) within 14 days of the entry of an Order by the Court resolving the motion to exclude, and Plaintiffs shall make their rebuttal disclosures under Rule 26(a)(2) within 14 days of service of Defendant's disclosure.
5. Unless Defendant files a motion to exclude in accordance with Paragraph 4 above, all discovery shall be completed by September 1, 2020. If Defendant files a motion to exclude in accordance with Paragraph 4 above, counsel agreed and hereby stipulate that all discovery shall be completed within 42 days of the entry of an Order by the Court resolving the motion to exclude, or by November 20, 2020, whichever occurs later. "Completed" means that (1) interrogatories, requests for production of documents, and requests for admission must be served so that responses thereto will be due on or before the cutoff date; (2) all discovery

depositions, including both fact and expert witnesses, be completed by the cutoff date; (3) motions to compel shall be heard on or before the cutoff date; and (4) all subpoenas *duces tecum* must be returnable on or before the cutoff date.

6. Sections V.B., V.C. and V.D. of the Pretrial Schedule A [D.E. 23-1] from the Scheduling Order [D.E. 23 & 25] are incorporated herein and shall govern deadlines for disclosures under Rule 26(a)(3), except that all deadlines measured from the Final Pretrial Conference shall be measured instead from the trial date.

7. No formal discovery requests will be necessary to obtain the information required to be disclosed through initial disclosures pursuant to Rule 26(a)(1).

8. If the Defendant does not file a motion to exclude any expert witnesses designated by the Plaintiff, the following deadlines shall apply to all motions for summary judgment under Rule 56:

- a. All motions for summary judgment and supporting memoranda shall be filed on or before September 25, 2020;
- b. All memoranda in opposition to a motion for summary judgment shall be filed on or before October 13, 2020; and
- c. All rebuttal memoranda in support of a motion for summary judgment shall be filed on or before October 26, 2020.
- d. The parties respectfully request that the Court schedule a hearing for oral argument on the motions for summary judgment, and that the hearing be scheduled for a date prior to November 25, 2020.

9. If the Defendant does submit a motion to exclude any expert witness designated by the Plaintiff, the summary judgment deadlines shall be controlled by the dates established in this Court's pretrial scheduling order, ECF No. 25 & 23-01.

10. Except as modified herein, the Scheduling Order and Pretrial Schedule A [D.E. 23] shall remain in effect.

11. The Non-Jury Initial Pretrial Order [D.E. 25] shall remain in effect.

12. Any party may request that the Court schedule a final pretrial conference.

13. This action is set for trial without a jury on January 11, 2021, at 10:00 a.m.

It is so ORDERED.

The Clerk is requested to send certified copies of this Order to all counsel of record.

Date: _____
Richmond, VA

Robert E. Payne
United States District Judge